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HICKMAN PALERMO TRUONG & BECKER, LLP			EXAMINER	
2055 GATEWAY PLACE			SKRIPNIKOV, ALEX	
SUITE 550				
SAN JOSE, CA 95110			ART UNIT	PAPER NUMBER
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			12/29/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/718,784	ZAMFIR ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alex Skripnikov	2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 26 September 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-52 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 7 is/are allowed.

6) Claim(s) 1-4,6,8-11,13-17,19-23 and 25-52 is/are rejected.

7) Claim(s) 5,12,18 and 24 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 21 November 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

**DETAILED ACTION*****Response to Amendment***

1. All rejections under 35 U.S.C 102 and 35 U.S.C 103 made in the previous Office action, mailed July 14, 2008, have been withdrawn in view of amendment filed September 26, 2008.
2. Page 19, lines 5-8, Applicants inform “*Corrected drawings are submitted in conformance with the requirements of the Office Action. Specifically, Fig. 1 is amended to include the legend "--Prior Art--" as indicated by the Office Action*”.

Corrected drawings have not been received. Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

***Response to Arguments***

3. Applicant's arguments, see page 28, line 17 - page 29, line 22, filed September 26, 2008, with respect to claims 26, 38, 43 and 48 have been fully considered and are persuasive. The rejection under 35 U.S.C. 102 (e) of claims 26, 38, 43 and 48 has been withdrawn.
4. Applicant's arguments regarding rejection under 35 U.S.C 102(e) of claims 1-3, 8-10, 14-16, and 20-22 have been fully considered but they are not persuasive. Kompella et al. fully discloses sending a Hello message to a first neighbor RSVP node, after entering the recovery mode (advertise restart capability 605; Fig. 6; Kompella et al.; Hello message; 830; Fig. 8; column 10,

lines 44-57), wherein the Hello message comprises a non-zero Recovery Time value; completing the recovery mode; sending a Hello message to the first neighbor RSVP node (622; advertise that forwarding state table was not preserved; Kompella et al.; Fig. 6; column 11, lines 15-20), after completing the recovery mode, wherein the Hello message comprises a Recovery Time value of zero.

5. Applicants arguments regarding 35 U.S.C. § 112, new matter rejections of claims 26-52, are not persuasive. See explanations below in paragraph 10.

### ***Oath/Declaration***

6. A preliminary amendment filed after the filing date of the application is not part of the original disclosure of the application. See MPEP §706.03(0). Applicant is required to provide a supplemental oath or declaration under 37 CFR 1.67 referring to the preliminary amendment. See MPEP §608.04(b).

### ***Drawings***

7. **Figure 1** should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required

corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

8. The preliminary amendment filed on 08/03/2004 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. It is applicant's obligation to review the preliminary amendment to ensure that it does not contain subject matter not otherwise included in the specification or drawings of the application as filed. See MPEP §608.04(b).

***Claim Rejections - 35 USC § 112***

9. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10. Claims **26-52** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

**As to claims 26, 38, 43 and 48:**

Claims 26, 38, 43 and 48 recite the claim language, "based on the second recovery data, updating the first path data to correspond to the second path data", that was not described in the specification as originally filed. Applicants refers to paragraph [0060] of the specification. However, paragraph [0060] does not provide support for updating the first path data to correspond to the second path data, particularly, paragraph [0060] does not teach corresponding first path data to second path data after updating. Paragraph [0060] does not teach that the Path state is the fist path. Paragraph [0060] teaches to update ERO, but not the first or second data path.

**As to claim 37:**

Claim 37 recite the claim language, "identifying forwarding data associated with the first RSVP PATH message", "based on the second Recovery Explicit Route Object contained in the received RSVP RESV message, updating the Explicit Route Object to correspond to the original RSVP route." were not described in the specification as originally filed. Paragraph [0051] fails to teach association of identifying forwarding data with the first RSVP PATH message. Paragraph [0060] does not provide support for the Explicit Route Object to correspond to the original RSVP route. Particularly, paragraph [0060] does not teach corresponding the Explicit Route Object to the Original RSVP route after updating. Paragraph [0060] does not teach original RSVP route. Paragraph [0060] teaches to update ERO, but it is silent about to correspond to the original RSVP route.

***Claim Rejections - 35 USC § 102***

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. **Claims 1-3, 8-10, 14-16 and 20-22** are rejected under 35 U.S.C. 102(e) as being anticipated by **Kompella et al. US 7,359,377**.

**As to claims 1, 8, 14 and 20:**

Kompella et al. discloses an apparatus for restarting resource reservation protocol (RSVP) processes in multiple network devices, comprising: a network interface that is coupled to the data network for receiving one or more packet flows therefrom (interfaces; Kompella et al.; column 26, lines 20-23); a processor; one or more stored sequences of instructions which, when executed by the processor (Kompella et al.; column 26, lines 24-47), and a method of restarting resource reservation protocol (RSVP) processes in multiple network devices, the method comprising the computer-implemented steps of:

entering a recovery mode (graceful restart: node with restart capability; Kompella et al.; Fig. 6; method 468a' that effected by a restarting node; Kompella et al.; column 10, line 39); sending a Hello message (advertise restart capability 605; Fig. 6; Kompella et al.; Hello message; 830; Fig. 8; column 10, lines 44-57)

to a first neighbor RSVP node (node A; Kompella et al.; Fig. 8), after entering the recovery mode (after method 468a' effected by a restarting node; Fig. 6; Kompella et al.; column 10, line 39), wherein the Hello message comprises a non-zero Recovery Time value (recovery time in milliseconds; Kompella et al.; column 22, lines 50-58); completing the recovery mode (restart of component complete with forwarding state was not preserved; Kompella et al.; Fig. 6; Fig. 8; column 10, lines 66-column 11, line 3); sending a Hello message to the first neighbor RSVP node (622; advertise that forwarding state table was not preserved; Kompella et al.; Fig. 6; column 11, lines 15-20), after completing the recovery mode (after restart of component complete with forwarding state was not preserved; Kompella et al.; Fig. 6; Fig. 8; column 10, lines 66-column 11, line 3), wherein the Hello message comprises a Recovery Time value of zero (set time to zero; Kompella et al.; column 23, lines 6-21; column 19, lines 10-15).

**As to claims 2, 9, 15 and 21:**

Kompella et al. discloses receiving, from a second neighbor RSVP node, a Hello message having a non-zero Recovery Time value (860; Kompella et al.; Fig. 8; column 23, lines 6-10, where method of Kompella et al. is applicable to more than two RSVP nodes within the network Fig. 3); storing information specifying that the second neighbor RSVP node is in a recovery mode (850; node a discovers that node b is down with setting local timer 855 which is running in the node; Kompella et al.; Fig. 8; column 12, lines 5-8).

**As to claims 3, 10, 16 and 22:**

Kompella et al. discloses receiving, from the second neighbor RSVP node, a Hello message having a zero Recovery Time value (Kompella et al.; Fig. 8; column 23, line 11, where method of Kompella et al. is applicable to more than two RSVP nodes within the network Fig. 3); storing information specifying that the second neighbor RSVP node is in a normal mode (735 accept or infer forwarding state from peer node, where time value of zero corresponds to the states were not preserved mode (normal mode); 735; Kompella et al.; Fig. 7).

### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims **4, 6, 11, 13, 17, 19, 23 and 25** rejected under 35 U.S.C. 103(a) as being unpatentable over **Kompella et al. US 7,359,377**, of record, in view of **Seddigh et al. US 7,317,731**, of record.

#### **As to claims 4, 11, 17 and 23:**

Kompella et al. discloses the claimed invention as to claims 2, 9, 15 and 21 above.

Kompella et al. fails to teach step of creating and storing second information further comprises the steps of: receiving an RSVP PATH message that contains a Recovery Label; forwarding the PATH message to a

downstream node with the Recovery Label only in response to determining that the PATH message is being sent to a node that is in recovery mode.

However, Seddigh et al. discloses receiving (received by node 620; Seddigh et al. Fig. 6) an RSVP PATH message (612; Seddigh et al. Fig. 6) that contains a Recovery Label (Seddigh et al.; column 18, lines 40-45); forwarding (forwarded by node 610; Seddigh et al.; Fig. 6) the PATH message (612; Seddigh et al. Fig. 6) to a downstream node with the Recovery Label only in response to determining that the PATH message is being sent to a node that is in recovery mode (Seddigh et al.; column 18, lines 36-45) for the purpose of hitless restart (Seddigh et al.; Title).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the applicants' invention was made to include RSVP PATH message processing in the RSVP system taught by Kompella et al., as taught by Seddigh et al., in order to perform a hitless restart in the network (Seddigh et al.; Title).

**As to claims 6, 13, 19 and 25:**

Kompella et al. and Seddigh et al. disclose the claimed invention as to claim 4, 11, 17 and 23 above.

Furthermore, Kompella et al. and Seddigh et al. disclose the determining step is performed based on whether a Recovery Time value in a previously received Hello message is non-zero (Kompella et al.; column 25, lines 13-31; Seddigh et al. column 18, lines 35-40).

15. Claim 7 is allowed.

16. Claim 5, 12, 18 and 24 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex Skripnikov whose telephone number is 571-270-1958. The examiner can normally be reached on Monday - Friday 9:00 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kwang B. Yao can be reached on 571-272-3182. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 22, 2008

/Alex Skripnikov/  
Examiner, Art Unit 2416

/Kwang B. Yao/

Supervisory Patent Examiner, Art Unit 2416